

**COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, April 21, 2015**

Council Members Bud Otis, President; M.C. Keegan-Ayer, Vice-President; Tony Chmelik, Treasurer; Kirby Delauter, Jerry Donald, Jessica Fitzwater and Billy Shreve were present for the meeting.

Also present were Ragen Cherney, Council Chief of Staff; Michael Chomel, County Attorney's Office; Joyce Grossnickle, Administrative Officer, and Patti Morrow, Recording Secretary.

Council President Otis called the meeting to order at 4:30 p.m. in the first floor hearing room, Winchester Hall, 12 East Church Street, Frederick, Maryland.

The meeting began with a moment of silence followed by the recitation of the Pledge of Allegiance.

Public Comments

- Stephan Dempsey
- Mark Long
- Steve McKay
- Tish Honse
- Steve Bruns
- Pam McKay
- Kai Hagen
- Craig Tyler
- Brent Simmons
- Kent Hepner
- Stan Mordensky
- Paul Rose, Esquire, Miles and Stockbridge
- Roy Stanley

Council President's Report

No report was given.

Council Member Comments

Comments were provided by Council Members Donald and Fitzwater.

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CONSENT AGENDA

The following items were considered on the consent agenda:

County Budget Transfers:

- #BT-15-171 – Office of Sustainability, Community Development Division
- #BT-15-173 and #BT-15-174 – Accounting, Finance Division

Mr. Steve Horn, Community Development Division; Mr. Chuck Nipe and Mr. Pat Hannah, Public Works Division; and Mr. Mike Gastley, Budget Office, commented on the budget transfers.

Council Member Keegan-Ayer moved to approve the consent agenda as presented. Council Member Delauter seconded the motion that passed 5-1-1 with Council Member Delauter opposed and Council Member Shreve abstained.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter		X	
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

Council Member Delauter noted his opposition to #BT-15-171.

BUSINESS ITEMS**Approval of Minutes**

Council Member Keegan-Ayer made a motion to approve the April 7, 2015, minutes. Council Member Fitzwater seconded the motion that passed 6-0-1 with Council Member Shreve abstained.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

Affirm Confirmation of County Executive's Appointee – Council President Bud Otis

Council President Otis presented County Executive Gardner's appointment she recently made to the Animal Control Division.

Council Member Otis moved to affirm the appointment of Ms. Linda Shea as director of the Animal Control Division. Council Member Delauter seconded the motion that passed 6-0-1 with Council Member Shreve abstained.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve			X
Presiding Officer - Otis	X		

Affirm Confirmation of County Executive's Appointee to the Containment Laboratory Community Advisory Committee – Joyce Grossnickle, Administrative Officer

Ms. Grossnickle presented County Executive Gardner's appointment she recently made to the Containment Laboratory Community Advisory Committee. Ms. Grossnickle requested Council's confirmation of the appointment.

Council Member Keegan-Ayer moved to affirm the appointment of J. Craig Reed, Ph.D, RBP for a term to expire June 30, 2015, and the appointment to serve a full three-year term that would become effective July 1, 2015, and expire June 30, 2018. Council Member Fitzwater seconded the motion that passed 7-0.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

To Consider Designation of 'Trout Run (Richey Lodge)' located at 12929 Catoctin Hollow Road, as a Listed Site on the Frederick County Register of Historic Places (Continued from 4/7/15) – Denis Superczynski, Community Development Division

Mr. Michael Chomel noted that due to the fact the record was not closed at the public hearing, he suggested allowing those who had not testified at the April 7 meeting to provide comment on the issue.

Council President Otis swore in all those persons who wished to testify before the Council on this matter that had not provided comments on April 7.

Public comments were made by:

- Steve Bruns
- Nathan Roberts
- Mary Lynn Logsdon, Executive Director, Jude House, Bel Alton, Maryland
- David Judice
- Patty Worsley
- Patrick Rockhill
- Stan Mordensky
- Craig Tyler
- Kimberly Mellon
- Steve McKay
- Clayton Townsend

Mr. Bruce Dean, Esquire, Linowes and Blocher, LLP; Ms. Katherine Kuranda, Christopher Goodwin & Associates, Inc.; Mr. Michael Proffitt, Proffitt & Associates Architects, PC, provided a rebuttal of the public comments.

The Council recognized Ms. Kuranda and Mr. Proffitt as expert witnesses.

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Council Member Keegan-Ayer moved to close the record on the Trout Run request for historic designation and continue the issue to a council meeting more than 30 days from today to allow the Council Members time to review the information provided on this day by the applicant and to review the Historic Preservation Commission meeting held on December 3, 2014. Council Member Fitzwater seconded the motion that passed 4-3 with Council Members Chmelik, Delauter and Shreve opposed.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik		X	
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter		X	
At-large - Otis			
At-large - Shreve		X	
Presiding Officer - Otis	X		

(The Council took a break from 6:10 – 6:20 p.m.)

Recommendation for External Auditor Contract – Lori Depies, Finance Division

Ms. Depies and Ms. Erin White, Finance Division presented the recommendation.

Council Member Keegan-Ayer moved to approve the recommended contract award for external audit services as presented. Council Member Chmelik seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

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Public Hearings

Draft FY 2016 Operating Budget, Draft 2016-2021 Capital Improvements Program (CIP), and Draft 2016 Capital Budget (Excluding the Board of Education Operating Budget) – Mike Gastley, Budget Office

A public hearing was held, as duly advertised, on the County Executive's Draft FY 2016 Budgets.

Mr. Gastley provided a brief summary of the budgets.

Public comments were heard from:

- Libby Burmaster, President, Frederick Community College
- Mike Spurrier, Frederick Community Action Agency
- Bill Ashton
- Cheryl Smith, Frederick County Public Library Board of Trustees
- Joe Baldi, Affordable Land Trust
- Cindy Powell
- Tony Nagle, Rebuilding Frederick County
- Angela Spencer, Human Relations Commission
- Lisa Clarke, Human Relations Committee

No action was taken as the purpose of the public hearing was to receive public comment on the proposed FY 2016 budget. The adoption of the FY 2016 Operating, FY 2016 Capital Budget and the FY 2016-2021 CIP is scheduled for Thursday, May 21, 2015.

To Consider Applications for the Purchase of Agricultural Preservation Easements through the Frederick County Installment Purchase Program (IPP) – Anne Bradley, Community Development Division

A public hearing was held, as duly advertised, on the top 11-ranked applications to the FY 2015 IPP.

Ms. Bradley reviewed the 11 applications. She noted the applications were approved by the County Executive and the Agricultural Preservation Advisory Board.

Public comment was heard from:

- Gary P. Carver

Council Member Keegan-Ayer moved to approve the top 11-ranked application, limiting terms to 20 years and valuing parcels with no further subdivision potential at a base price of \$1,000 per acre. Council Member Donald seconded the motion that passed 7-0.

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

Proposed Amendments to the Frederick County Water and Sewerage Plan (Fall 2014 Cycle) – Tim Goodfellow, Community Development Division

A public hearing was held, as duly advertised, on the proposed Fall 2014 cycle of water and sewerage amendments.

Council Member Otis swore in all those who would testify.

#WS-14-25 - LT Ventures and Gas House Pike Real Estate LLC – Tax Map 68, Parcels 11, 174, 175, and 176 – located on the southwest corner of Gas House Pike and Linganore Road.

Public comment was heard from:

- Jason Wiley, Oakdale Investments, LLC

Council Member Shreve moved to approve #WS-14-25 as presented. Council Member Delauter seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

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#WS-14-26 - Dryden Investments, LLC – Tax Map 79, Parcel 34 – located on the south side of Old National Pike at Eaglehead Drive.

There was no public comment.

Council Member Shreve moved to approve #WS-14-26 as presented. Council Member Delauter seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

#WS-14-27 - Oakdale Investments, LLC – Tax Map 68, Parcel 36, Tax Map 79, part of Parcel 146 and 162 – located on the south side of Gas House Pike at Woodridge Road.

There was no public comment.

Council Member Shreve moved to approve #WS-14-27 as presented. Council Member Delauter seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

#WS-14-28 - Town of New Market/Lawrence Wrinn – Tax Map 801, Parcel 3900 – 163 Wicomico Court, New Market.

There was no public comment.

Council Member Shreve moved to approve #WS-14-28 as presented. Council Member Delauter seconded the motion that passed 7-0.

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District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

Public Comments

- John Neary, President, Career Fire Fighters Association of Frederick County, Maryland, Inc., IAFF 3666

Council Comments

Council Members Delauter, Fitzwater and Shreve provided comments.

Closed Session

Maryland Annotated Code General Provisions Article §3-305(b): (7) To consult with counsel to obtain legal advice on a legal matter.

Topic: To discuss the meaning and impact of a recent court decision.

Council Member Keegan-Ayer moved to go into Closed Session. Council Member Donald seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 - Donald	X		
District 2 - Chmelik	X		
District 3 - Keegan-Ayer	X		
District 4 - Fitzwater	X		
District 5 - Delauter	X		
At-large - Otis			
At-large - Shreve	X		
Presiding Officer - Otis	X		

Adjourn

The meeting adjourned at 8:30 p.m.

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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, APRIL 21, 2015**

STATUTORY AUTHORITY TO CLOSE SESSION

Maryland Annotated Code General Provisions Article §3-305(b): (7) To consult with counsel to obtain legal advice on a legal matter.

Motion:

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Donald, the Council voted 7-0 to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b) (7) To consult with counsel to obtain legal advice on a legal matter.

Time and Location:

8:35 p.m. – Third Floor Meeting Room, Winchester Hall

Topic to be Discussed:

To discuss the meaning and impact of a recent court decision.

Bud Otis, President
County Council

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON WEDNESDAY, APRIL 22, 2015,
FOLLOWING THE CLOSED MEETING OF TUESDAY, APRIL 21, 2015**

STATUTORY AUTHORITY TO CLOSE SESSION

Maryland Annotated Code General Provisions Article §3-305(b) (7) To consult with counsel to obtain legal advice on a legal matter.

Motion:

Upon a motion by Council Member Keegan-Ayer, seconded by Council Member Donald, the Council voted 7-0 to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b) (7) To consult with counsel to obtain legal advice on a legal matter.

Time and Location:

8:35 p.m. – Third Floor Meeting Room, Winchester Hall

Others in Attendance:

J. Mathias, M. Chomel, K. Mitchell and R. Cherney

Topic to be Discussed:

To discuss the meaning and impact of a recent court decision.

Action Taken:

The Council agreed to consider further action on the court decision at the April 29 Council Meeting.

Bud Otis, President
County Council